

(10) In appropriate cases the General Counsel may, in his or her sole and unfettered discretion, refer matters requiring administrative review of initial decisions to the Commission for determination and the issuance, where indicated, of orders.

(b) *Statement of disagreement.* As noted in paragraph (a)(9)(ii) of this section, an individual may file with the General Counsel a statement setting forth his disagreement with the General Counsel's denial of his request to amend or correct a record.

(1) Such statement of disagreement shall be delivered or sent by mail to the Office of Freedom of Information and Privacy Act Operations, SEC, Operations Center, 6432 General Green Way, Alexandria, VA 22312-2413, or by facsimile (703-914-1149), within 30 days after receipt by the individual of the General Counsel's order denying the amendment or correction. For good cause shown this period can be extended for a reasonable time.

(2) Such statement of disagreement shall concisely state the basis for the individual's agreement. Generally a statement should be no more than two pages in length, except an individual may submit a slightly longer statement if it is necessary to set forth his disagreement effectively. Unduly lengthy or irrelevant materials will be returned to the individual by the General Counsel for appropriate revisions before they become a permanent part of the individual's record.

(3) The record about which a statement of disagreement has been filed will clearly note which part of the record is disputed and the General Counsel will provide copies of the statement of disagreement and, if the General Counsel deems it appropriate, provide a concise statement of his or her reasons for refusing to amend or correct the record, to persons or other agencies to whom the record has been or will be disclosed.

(4) In appropriate cases, the General Counsel may, in his or her sole and unfettered discretion, refer matters con-

cerning statements of disagreement to the Commission for disposition.

(5 U.S.C. 552a(f); sec. 19, Securities Act of 1933, 48 Stat. 85, as amended; sec. 23, Securities Exchange Act of 1934, 48 Stat. 901, as amended; sec. 20, Public Utility Holding Company Act of 1935, 49 Stat. 833; sec. 319, Trust Indenture Act of 1939, 53 Stat. 1173; sec. 38, Investment Company Act of 1940, 54 Stat. 841; sec. 211, Investment Advisers Act of 1940, 54 Stat. 855 (15 U.S.C. 77s, 78w, 79t, 77sss, 80a-37, 80b-11))

[40 FR 44068, Sept. 24, 1975, as amended at 42 FR 40190, Aug. 9, 1977; 47 FR 26819, June 22, 1982; 49 FR 13866, Apr. 9, 1984; 65 FR 55186, Sept. 13, 2000]

§ 200.309 General provisions.

(a) *Extensions of time.* Pursuant to §§ 200.303(b), 200.304(d), 200.307(c) and 200.308(a)(4) of this subpart, the time within which a request for information, access or amendment by an individual with respect to records maintained by the Commission that pertain to him normally would be processed may be extended for good cause shown or because of unusual circumstances. As used in these rules, *good cause* and *unusual circumstances* shall include, but only to the extent reasonably necessary to the proper processing of a particular request:

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the Office processing the request. Many records of the Commission are stored in Federal Records Centers in accordance with law—including many of the documents which have been on file with the Commission for more than 2 years—and cannot be made available promptly. Other records may temporarily be located at a Regional or District Office of the Commission. Any person who has requested for personal examination a record stored at the Federal Records Center or temporarily located in a Regional or District Office of the Commission will be notified when the record will be made available to him.

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which may be demanded in a

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single request. While every reasonable effort will be made fully to comply with each request as promptly as possible on a first-come, first-served basis, work done to search for, collect and appropriately examine records in response to a request for a large number of records will be contingent upon the availability of processing personnel in accordance with an equitable allocation of time to all members of the public who have requested or wish to request records.

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request, or among two or more components within the Commission having substantial subject-matter interest therein.

(b) *Effective date of action.* Whenever it is provided in this Subpart that an acknowledgement or response to a request will be given by specific times, deposit in the mails of such acknowledgement or response by that time, addressed to the person making the request, will be deemed full compliance.

(c) *Records in use by a member of the Commission or its staff.* Although every effort will be made to make a record in use by a member of the Commission or its staff available when requested, it may occasionally be necessary to delay making such a record available when doing so at the time the request is made would seriously interfere with the work of the Commission or its staff.

(d) *Missing or lost records.* Any person who has requested a record or a copy of a record pertaining to him will be notified if the record sought cannot be found. If he so requests, he will be notified if the record subsequently is found.

(e) *Oral requests; misdirected written requests—*(1) *Telephone and other oral requests.* Before responding to any request by an individual for information concerning whether records maintained by the Commission in a system of records pertain to him or to any request for access to records by an individual, such request must be in writing and signed by the individual making the request. The General Counsel will not entertain any appeal from an alleged denial or failure to comply with

an oral request. Any person who has orally requested information or access to records pertaining to him that he believes to have been improperly denied to him should resubmit his request in appropriate written form in order to obtain proper consideration and, if need be, administrative review.

(2) *Misdirected written requests.* The Commission cannot assure that a timely or satisfactory response will be given to written requests for information, access or amendment by an individual with respect to records pertaining to him that are directed to the Commission other than in a manner prescribed in §§ 200.303(a), 200.306(a), 200.308(a)(2), and 200.310 of this subpart. Any staff member who receives a written request for information, access or amendment should promptly forward the request to the Privacy Act Officer. Misdirected requests for records will be considered to have been received by the Commission only when they have been actually received by the Privacy Act Officer in cases under § 200.308(a)(2). The General Counsel will not entertain any appeal from an alleged denial or failure to comply with a misdirected request, unless it is clearly shown that the request was in fact received by the Privacy Act Officer.

(5 U.S.C. 552a(f); sec. 19, Securities Act of 1933, 48 Stat. 85, as amended; sec. 23, Securities Exchange Act of 1934, 48 Stat. 901, as amended; sec. 20, Public Utility Holding Company Act of 1935, 49 Stat. 833; sec. 319, Trust Indenture Act of 1939, 53 Stat. 1173; sec. 38, Investment Company Act of 1940, 54 Stat. 841; sec. 211, Investment Advisers Act of 1940, 54 Stat. 855 (15 U.S.C. 77s, 78w, 79t, 77sss, 80a–37, 80b–11))

[40 FR 44068, Sept. 24, 1975, as amended at 49 FR 13867, Apr. 9, 1984; 59 FR 5945, Feb. 9, 1994]

§ 200.310 Fees.

(a) A request by an individual for copies of a record pertaining to him or her that is maintained by the Commission may be sent by mail to the Office of Freedom of Information and Privacy Act Operations, SEC, Operations Center, 6432 General Green Way, Alexandria, VA 22312–2413, or by facsimile (703–914–1149). There will be no charge assessed to the individual for the Commission's expense involved in searching for or reviewing the record. Copies of